

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMIE ELLIOTT,

No. 1:24-CV-00095

Plaintiff,

(Chief Judge Brann)

v.

(Magistrate Judge Schwab)

LT. GRACE, *et al.*,

Defendants.

**ORDER**

**MAY 21, 2024**

Plaintiff filed the instant action on January 19, 2024,<sup>1</sup> and it was jointly assigned to the undersigned and to a magistrate judge. Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and . . . submit to a judge of the court proposed findings of fact and recommendations.”<sup>2</sup> Once filed, this report and recommendation is disseminated to the parties in the case who then have the opportunity to file written objections.<sup>3</sup>

In January 2024, Magistrate Judge Susan E. Schwab, to whom this matter is jointly assigned, conducted a preliminary review of Plaintiff Jamie Elliott’s complaint.<sup>4</sup> Magistrate Judge Schwab granted Elliott leave to amend his complaint

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<sup>1</sup> Complaint, Doc. 1.

<sup>2</sup> 28 U.S.C. 636(b)(1)(B).

<sup>3</sup> 28 U.S.C. 636(b)(1).

<sup>4</sup> Order, Doc. 5.

because it failed to state a claim upon which relief can be granted.<sup>5</sup> Elliott filed his amended complaint in February 2024.<sup>6</sup> In April 2024, Elliott filed a related motion for default judgment.<sup>7</sup> On April 17, 2024, Magistrate Judge Schwab issued a thorough report and recommendation recommending that because Elliott's amended complaint suffered from the same deficiencies as his original complaint, his case should be dismissed with prejudice.<sup>8</sup> Magistrate Judge Schwab's Report and Recommendation also recommended denying Elliott's motion for default judgment because his amended complaint was never served to the defendants.<sup>9</sup>

No objections to the report and recommendation have been filed. Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.<sup>10</sup> Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.<sup>11</sup>

Because the Court writes solely for the parties, it will not restate the facts, but will instead adopt the recitation of facts as set forth by the magistrate judge. The Court has conducted a de novo review here and found no error.

<sup>5</sup> *Id.* at 1.

<sup>6</sup> Amended Complaint, Doc. 9.

<sup>7</sup> Motion for Default Judgment, Doc. 12.

<sup>8</sup> Report and Recommendation, Doc. 15 at 11.

<sup>9</sup> *Id.* at 11.

<sup>10</sup> Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

<sup>11</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

**AND NOW, IT IS HEREBY ORDERED** that:

1. Magistrate Judge Schwab's Report and Recommendation (Doc. 15) is **ADOPTED** in full;
2. Plaintiff Jamie Elliott's Motion for Default Judgment (Doc. 12) is **DENIED**;
3. Elliott's amended complaint (Doc. 9) and subsequently filed amended complaint (Doc. 17) are both **DISMISSED** with prejudice; and
4. The Clerk is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann  
Chief United States District Judge